

FORM FOR USE IN APPLICATIONS
FOR HABEAS CORPUS UNDER 28 U.S.C. § 2254

Kenneth Price (Sentenced under Kenny Price)
Name

AIS# 150784
Prison Number

Ventress Correctional Facility
Place of Confinement

Po Box 767 Clayton, Alabama 36016
Place of Confinement

United States District Court Middle/Northern Division District of Alabama
Case No. 2:06cv 236-WKW
 (To be supplied by Clerk of U. S. District Court)

Kenneth Price (Kenny Price), **PETITIONER**
 (Full Name) (Include name under which you were convicted)

Warden J.C. Giles, **RESPONDENT**
 (Name of Warden, Superintendent, Jailor, or authorized person
 having custody of Petitioner)

and

THE ATTORNEY GENERAL OF THE STATE OF Alabama

ADDITIONAL RESPONDENT.

(if petitioner is attacking a judgement which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. §2255, in the federal court which entered the judgment.)

**PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN
 STATE CUSTODY**

INSTRUCTIONS--READ CAREFULLY

- (1) This petition must be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

The Judicial Conference of the United States has adopted, effective 1/1/83, the 8½ x 11 inch paper size standard for use throughout the federal judiciary and directed the elimination of the use of legal size paper. All pleadings, etc. filed after 12/31/82 must be on 8½ x 11 inch paper, otherwise we cannot accept them.

- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a fee of \$5 your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, the original and two copies * must be mailed to the Clerk of the United States District Court whose address is:

P.O. Box 711
Montgomery, Alabama 36101

- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

***If you are proceeding in forma pauperis, only the original petition needs to be filed with the Court.**

PETITION

1. Name and location of court which entered the judgment of conviction under attack Pike County Circuit Court Troy, Alabama
2. Date of judgment of conviction November 7, 2007
3. Length of sentence 25 years Sentencing Judge Judge Blair

4. Nature of offense or offenses for which you were convicted: Distribution
of a Controlled Substance 3 Counts. 13n 12-211
Case # CC-02-134 CC-02-135 (Disposal of)
CC-02-136

5. What was your plea? (check one)

(a) Not guilty

(b) Guilty

(c) Nolo contendere

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. Kind of trial: (Check one)

(a) Jury

(b) Judge only

7. Did you testify at the trial? Yes No

8. Did you appeal from the judgment of conviction? Yes No

9. If you did appeal, answer the following:

(a) Name of court Alabama Court of Criminal Appeals

(b) Result Affirmed

(c) Date of result November 21, 2003

If you filed a second appeal or filed a petition for certiorari in the Supreme Court, give details: Writ of Certiorari filed, Ineffective 'Jailhouse' Lawyer Sent to wrong Court; And it was denied by Supreme Court on August 13, 2004. Case # 1030509

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes No

11. If your answer to 10 was "yes", give the following information:

(a) (1) Name of court Alabama Supreme Court

(2) Nature of proceeding Writ of Certiorari / Sent to Alabama Court of Crim. Appeals by 'Jailhouse Lawyer'

(3) Grounds raised

N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

(5) Result

(6) Date of result

(b) As to any second petition, application or motion give the same information:

(1) Name of court Pike County Circuit Court

(2) Nature of proceeding _____ Rye 32 Post-Conviction Remedy

(3) Grounds raised Ineffective assistance of both Trial and Appellate Counsel.

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () No (x)

(5) Result Denied

(6) Date of result 6/17/2005

(c) As to any third petition, application or motion, give the same information:

(1) Name of Court _

(2) Nature of proceeding.

(3) Grounds raised

N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () , No (✓)

(5) Result _____

(6) Date of result _____

(d) Did you appeal to the highest state court having jurisdiction the result of any action taken on any petition, application or motion:

(1) First petition, etc.

Application of motion: Yes () No (✓)

(2) Second petition, etc.

Yes () No ()

(2) Second petition, etc
(3) Third petition, etc

Yes () No (✓)
Yes () No ()

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. *(D.B. 25)*

or motion, explain briefly why you did not: The petitioner has not had effective assistance that understood how to appeal or the

proper procedures of the Courts, therefore he has been deprived of Effectiveness of Documents filed due to lack of knowledge of the law. The petitioner has now found Paralegal Assistance with a friend, and a active Attorney who may later preside if needed in the matter.

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. As to all grounds on which you have previously exhausted state court remedies, you should set them forth in this petition if you wish to seek federal relief. If you fail to set forth all such grounds in this petition, you may be barred from presenting them at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted all your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

If you select one or more of these grounds for relief, you must allege facts in support of the ground or grounds which you choose. Do not check any of the grounds listed below. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- () Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- () Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

Separate Memorandum in
(Brief)
Support of #3
to be mailed.

A. Ground one: Conviction obtained by action of a grand or petit jury which was unconstitutionally selected or impaneled.

Supporting FACTS (tell your story briefly without citing cases or law):

The Trial Judge led the Jury during Trial, And after a few days made a statement he would put them in jail if they didn't make a decision. Trial Judge Chase the Foremen himself had led Trial throughout the whole procedure in a errorful manner.

B. Ground two: Denial of effective ~~assistance~~ assistance of both trial And Appellate Counsel

Supporting FACTS (tell your story briefly without citing cases or law):

Trial And Appellate Counsel had been ineffective. Trial Counsel did not instruct his Client on all stages of trial And did not reject the errors done by trial judge And never filed proper motion that could of question this. Appellate Counsel did not understand, due to no time spent with his Client And withdrew himself from Case also after filing a no merits Brief.

C. Ground three: Unlawfully Sentenced Due to Void Indictment

Supporting FACTS (tell your story briefly without citing cases or law):

The Petitioner has newly discovered evidence recently found in which a void Indictment of the 3 Counts of Distribution was found And It was sectioned as a manufacturing Charge, which illegally also charged him the Petitioner.

D. Ground four: Unlawfully Sentenced under Habitual Felony Offender act.

Supporting FACTS (tell your story briefly without citing cases or law):
 The petitioner was sentenced under (H.F.O.A.) In which a Plea Agreement was used against him And only one charge was the only felony legally retained against him. Newly discovered evidence by Petitioners Representative.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal state briefly what grounds were not so presented, and give your reasons for not presenting them: 12(A) ; 12(C) ; 12(D)

These grounds are newly discovered Evidence in which if stated can give the petitioner relief from conviction And sentencing. They can not be waived by default And has to be reviewed as stated by petitioner.

14. Do you have any petition or appeal now pending in any court, whether state or federal, as to the judgment under attack? Yes No

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing N/A

(b) At arraignment and plea James Thomas
Po Box 974 Troy, Alabama 36081

(c) At trial Same as 15(B)

(d) At sentencing Same as 15(B)

(e) On appeal Lloyd W. Carr
122 N. Cordelia Ave. Elba, Alabama 36323

(f) In any post-conviction proceeding N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding: N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes No

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes No

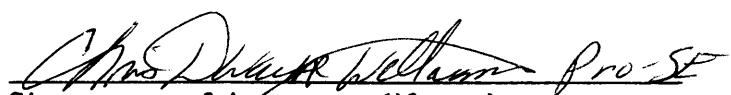
(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) And give date and length of sentence to be served in the future: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes No

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.


Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on 3/5/2006
(date)


Signature of Petitioner

RECEIVED

"Certificate of Service MAR 14 '06 A 9:40"

MAILED BY CLERK
U.S. DISTRICT COURT
MONTGOMERY, ALA

I certify, I (Kenneth Price) sent a copy of this U.S.C. 28 32254 Hubers Corpus to:

Attorney General for State of Alabama 11 South Union Street Montgomery, AL 36130-0152	United States District Court P.O. Box 711 Montgomery, Alabama 36101
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By placing a copy of the same, all postage pre-paid.
This 13 day of March, 2006.

Kenneth Price
Signature (Pro-SE)